

**SUBSTITUTE FOR  
HOUSE BILL NO. 5345**

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending section 409 (MCL 436.1409), as amended by 2014 PA 48.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 409. (1) Except as provided in this section, the  
2 commission shall levy and collect a tax on all beer manufactured or  
3 sold in this state at the rate of \$6.30 per barrel if the beer is  
4 sold in bulk or in different quantities. Before February 1, 2015,  
5 the tax ~~shall~~**must** be paid by the brewer or brewpub if manufactured  
6 in this state or by the wholesaler or the person from whom  
7 purchased if manufactured outside this state, whichever is  
8 designated by the commission.

9           (2) Beginning on and after February 1, 2015, the tax ~~shall~~



1 **under this section must** be paid by the brewer or brewpub if the  
 2 beer is manufactured in this state or if the beer is manufactured  
 3 outside this state the tax ~~shall~~**must** be paid by the wholesaler  
 4 assigned to distribute that beer and the tax ~~shall~~**must** be levied  
 5 and collected on the number of barrels the wholesaler actually sold  
 6 to licensed retailers in this state. A brewer may designate a  
 7 wholesaler to pay the tax on behalf of the brewer. If a brewer  
 8 designates a wholesaler to pay the tax on its behalf, the brewer  
 9 shall notify the commission of the designation and provide the  
 10 commission with a copy of its brewer's report of operations that it  
 11 filed with the ~~alcohol~~**Alcohol** and ~~tobacco tax~~**Tobacco Tax** and  
 12 ~~trade bureau~~**Trade Bureau** of the United States ~~department~~  
 13 **Department** of ~~treasury~~**Treasury** for each calendar year.

14 (3) The commission shall establish by rule a method for the  
 15 collection of the tax levied under subsection (1) and reporting  
 16 requirements for wholesalers, brewers, brewpubs, and outstate  
 17 sellers of beer to verify the remission of taxes to this state. ~~The~~  
 18 **Except as otherwise provided in this subsection, the** commission  
 19 shall not require that the tax be paid in less than monthly  
 20 intervals. **Beginning March 15, 2020, the commission shall not**  
 21 **require that the tax be paid in less than quarterly intervals.** The  
 22 rules ~~shall~~**under this section must** be promulgated pursuant to the  
 23 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
 24 24.328.

25 (4) The tax levied ~~in~~**under** subsection (1) ~~shall~~**must** not be  
 26 collected on beer that is consumed on the premises of the  
 27 manufacturer or is damaged in the process of brewing, packaging,  
 28 storage, and distribution and is not offered for sale, except that  
 29 beer sold by a brewpub for consumption on the premises or beer



1 produced and consumed on the premises of a micro brewer is subject  
2 to the tax levied under subsection (1).

3 (5) The tax levied under subsection (1) ~~shall~~**must** be rebated  
4 to the person that paid the tax if ~~that~~**the** person provides  
5 satisfactory proof to the commission that the beer was shipped  
6 outside of this state for sale and consumption outside this state.

7 (6) For the purposes of the tax levied under subsection (1), a  
8 barrel of beer contains 31 gallons.

9 (7) The commission may promulgate a rule that designates the  
10 states or the laws or the rules of other states that require a  
11 licensed wholesaler of beer to pay an additional fee for the right  
12 to purchase, import, or sell beer manufactured in this state; that  
13 denies the issuance of a license authorizing the importation of  
14 beer to any wholesaler of beer in that state who applies for the  
15 license; that prohibits wholesalers of beer in that state from  
16 possessing or selling beer purchased in this state, unless the  
17 person from whom the beer was purchased has secured a license and  
18 paid a fee in that state, if the seller does not transport the beer  
19 into the state and does not sell the beer in the state; or that  
20 imposes any higher taxes or inspection fees ~~upon~~**on** beer  
21 manufactured in this state when transporting the beer into or  
22 selling the beer in that state than taxes or fees imposed ~~upon~~**on**  
23 beer manufactured and sold within that state. A rule promulgated  
24 under this subsection ~~shall~~**must** prohibit all licensees from  
25 purchasing, receiving, possessing, or selling any beer manufactured  
26 in any state designated in the rule. A rule promulgated under this  
27 subsection becomes effective as provided in section 47 of the  
28 administrative procedures act of 1969, 1969 PA 306, MCL 24.247. Any  
29 licensee or person adversely affected by a rule promulgated under



1 this subsection is entitled to review by leave to a court of  
2 competent jurisdiction regarding the question as to whether the  
3 commission acted illegally or in excess of its authority in making  
4 its finding under this subsection with respect to any state.

5 (8) Regardless of whether the tax was remitted to this state  
6 by the eligible brewer or a designated wholesaler, an eligible  
7 brewer may claim a credit or request a refund, in a manner as  
8 determined by the commission, against the tax levied under  
9 subsection (1) in the amount of \$2.00 per barrel for the first  
10 30,000 barrels. As used in this subsection, "eligible brewer" means  
11 a brewer, whether or not located in this state, or brewpub that  
12 manufactures not more than ~~50,000~~ **60,000** barrels of beer during the  
13 tax year for which the credit is claimed. In determining the number  
14 of barrels for purposes of the credit, all brands and labels of a  
15 brewer ~~shall~~ **must** be combined and all facilities for the production  
16 of beer that are owned or controlled by the same person ~~shall be~~ **is**  
17 treated as a single facility.

18 Enacting section 1. This amendatory act does not take effect  
19 unless all of the following bills of the 100th Legislature are  
20 enacted into law:

- 21 (a) House Bill No. 5341.  
22 (b) House Bill No. 5342.  
23 (c) House Bill No. 5343.  
24 (d) House Bill No. 5344.  
25 (e) House Bill No. 5346.  
26 (f) House Bill No. 5347.  
27 (g) House Bill No. 5348.  
28 (h) House Bill No. 5349.  
29 (i) House Bill No. 5350.



- 1 (j) House Bill No. 5351.
- 2 (k) House Bill No. 5352.
- 3 (l) House Bill No. 5353.
- 4 (m) House Bill No. 5354.
- 5 (n) House Bill No. 5355.
- 6 (o) House Bill No. 5400.

